S.B. CIVIL WRIT PETITION NO.5030/2004.
Bheru Singh Vs. State & Ors.

Date of Order :: 20th August 2007.

HON'BLE MR.JUSTICE DINESH MAHESHWARI

Ms. Nupur Bhati for
Mr. Pushpendra Singh, for the petitioner.
Mr. O.P. Boob, Addl. G.A., for the respondents.

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Having heard learned counsel for the parties and having perused the averments taken in the writ petition and in the reply by the respondents, this Court is satisfied that this petition remains totally bereft of substance.

The petitioner was taken on the post of Cattle Guard as a work-charged employee. The petitioner has stated date of joining as 16.01.1988 whereas according to the respondents he joined as Cattle Guard on 01.04.1989. Be that as it may, by the communication dated 26.07.2004 (Annex.3), the Additional Divisional Commissioner, Udaipur, in pursuance of the Circular dated 10.05.1991 has asked the Collector, Chittorgarh for issuance of necessary orders for absorption of six persons including the petitioner working as Cattle Guard on Class-IV post. The Additional Collector, Chittorgarh by his impugned communication dated 07.08.2004 (Annex.4) has requested the Conservator of Forests, Aravali Vriksharopan Pariyojna, Udaipur

to send the said employees for further proceedings in relation to their absorption.

The petitioner has filed this writ petition on 03.11.2004 with the submissions that the services rendered by him as Cattle Guard were essential in nature and cannot be dispensed with and, therefore, according to the petitioner, he ought to have been continued as Cattle Guard. The petitioner has averred that declaration of surplus and absorption by the respondents was a prejudicial exercise being conducted to suit some personal interest and may be in order to take care of the statistics pertaining to manpower. The petitioner has suggested that he had rendered services for a long period and has developed a niche in the present task and in case any other person is assigned his role, he may not be able to perform the duty as well.

The respondents have pointed out that the exercise has been carried out in terms of the Government decision dated 10.05.1991 relating to absorption of work-charged staff in the State on the available vacant posts so as to avoid financial burden on the State and for the benefit of the persons like the petitioner. It has also been categorically stated that there has not been any prejudicial exercise inasmuch as a seniority list was prepared and the junior most persons were being relieved first; and that the persons junior to the petitioner had already joined on their regular posts.

The submissions as made by the petitioner remain totally hollow and misconceived. The respondents have rather acted in the interest of the petitioner in discharging moral obligations of a model employer to provide absorption on other available vacant posts though the petitioner was only a work-charged employee. The petitioner has no such legal right to insist on continuance on the post of Cattle Guard nor appears justified in suggesting that the respondents have conducted any prejudicial exercise in order to make adjustment of figures. When the respondents were satisfied that the services rendered by the petitioner could be carried out by their available regular staff; and have taken care to absorb the petitioner on other available post, the exercise remains unexceptionable.

The writ petition fails and is, therefore, dismissed.

(DINESH MAHESHWARI), J.

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